

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Joseph Davis, #222918,)	C/A No.: 3:07-1365-JFA-JRM
a/k/a Jeremy Joseph Davis,)	
)	
Petitioner,)	
v.)	ORDER
)	
David J. Wakefield,)	
)	
Respondent.)	
_____)	

The *pro se* petitioner, Joseph Davis, is a state prisoner confined in the Pennsylvania Department of Corrections. He initiated this action pursuant to 28 U.S.C. § 2254 seeking relief from his pending state criminal case in Greenville County, South Carolina. Although petitioner originally filed his petition in the United States District Court for the Middle District of Pennsylvania, the district judge assigned to that case transferred the case to the District of South Carolina.

The Magistrate Judge assigned to this action¹ has prepared a comprehensive Report and Recommendation wherein he suggests that the petition be denied and the action be

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

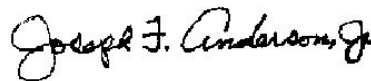
dismissed without prejudice. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The petitioner was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on May 17, 2007. He did not file timely objections² to the Report.

The Magistrate Judge recommends that this action be dismissed without prejudice because the petitioner has not exhausted his state remedies as required under 28 U.S.C. § 2254(b).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is hereby dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.



Joseph F. Anderson, Jr.
United States District Judge

June 12, 2007
Columbia, South Carolina

² Under 28 U.S.C. § 636(b)(1), the district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's Report to which objections have been filed. The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to timely file specific written objections to the Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).